

AUG 15 2007

Application Serial No: 10/765,309
Responsive to the Office Action mailed on: May 15, 2007

REMARKS

This Amendment is in response to the Office Action mailed on November 30, 2006. Claims 1, 12, 15, 19 and 22 are amended. Claims 1 is amended editorially to include features of claims 2, 3, 14 and 15. Claims 12 and 15 are amended to track the features of claim 1. Claim 19 is amended editorially to fix a typographical error. Claim 22 is amended editorially to include features of claims 23, 14 and 15. Claims 2-6, 10, 11, 14 and 23 are cancelled without prejudice or disclaimer. No new matter is added. Claims 1, 7-9, 12, 13, 15-22 and 24-26 are pending.

§102 Rejections:

Claims 1, 2, 4-6, 11-14 and 22-26 are rejected as being anticipated by Kosaka (US Patent No. 6,188,819). This rejection is traversed.

Claim 1 is directed to an optical element comprising a structure that requires, among other features, that the structure is a diffraction grating for first-order diffracting incident light. Claim 1 is amended to include this feature from allowable claim 15.

Kosaka does not disclose or teach or suggest these features. Kosaka is directed to a wavelength dividing circuit that includes a layer (1). Nowhere does Kosaka disclose or suggest that the composition within layer (1) is a diffraction grating for first-order diffracting incident light. For at least these reasons claim 1 is not suggested by Kosaka. Claims 11-14 depend from claim 1 and should be allowed for at least the same reasons.

Claim 22 is directed to a method for producing a substrate that requires, inter alia, that the structure is a diffraction grating for first-order diffracting incident light. Claim 22 is amended to include this feature from allowable claim 15. As disclosed above, with respect to claim 1, nowhere does Kosaka disclose or suggest that the composition within layer (1) is a diffraction grating for first-order diffracting incident light. For at least these reasons claim 22 is not suggested by Kosaka. Claims 24-26 depend from claim 22 and should be allowed for at least the same reasons.

§103 Rejections:

Claims 1-5, 7, 8, 10-14 and 22-25 are rejected as being unpatentable over Fournier (US Patent No. 5,210,801). This rejection is traversed.

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Claim 1 is directed to an optical element comprising a structure that requires, among other features, that the structure is a diffraction grating for first-order diffracting incident light. Claim 1 is amended to include this feature from allowable claim 15.

Fournier does not disclose or teach or suggest these features. Fournier is directed to an environmentally protected integrated optical component. Nowhere does Fournier disclose or suggest a structure that is a diffraction grating for first-order diffracting incident light. For at least these reasons claim 1 is not suggested by Fournier. Claims 11-14 depend from claim 1 and should be allowed for at least the same reasons:

Claim 22 is directed to a method for producing a substrate that requires, inter alia, that the structure is a diffraction grating for first-order diffracting incident light. Claim 22 is amended to include this feature from allowable claim 15. As disclosed above, with respect to claim 1, nowhere does Fournier disclose or suggest a structure that is a diffraction grating for first-order diffracting incident light. For at least these reasons claim 22 is not suggested by Fournier. Claims 24-26 depend from claim 22 and should be allowed for at least the same reasons.

Claims 6-9 are rejected as being unpatentable over Fournier (US Patent No. 5,210,801). This rejection is traversed. Claims 7-9 depend from claim 1 and should be allowed for at least the same reasons described above.

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Conclusion:

Applicants respectfully assert claims 1, 7-9, 12, 13, 15-22 and 24-26 are now in condition for allowance. If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicants' primary attorney-of record, Douglas P. Mueller (Reg. No. 30,300), at (612) 455-3804.



Dated: August 15, 2007

Respectfully submitted,

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